

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

\*

v.

\*

Case No. 1:24-cr-00093-RDB

DAVID FUNDERBURK

\*

\* \* \* \* \*

**MOTION TO RELEASE OR RELOCATE DEFENDANT**

Defendant, David Funderburk, by and through undersigned counsel, pursuant to 18 U.S.C. § 3142, hereby moves this Court to release or relocate the Defendant pending trial, and states the following in support thereof.

**INTRODUCTION**

During his lengthy pretrial detention, Mr. Funderburk has been detained at the Chesapeake Detention Facility. Last week Mr. Funderburk was suddenly relocated to FDC Philadelphia. With trial scheduled to commence on January 27, 2025, Mr. Funderburk is left to prepare for trial with his attorney located in another state. aa

**ARGUMENT**

Mr. Funderburk is currently being denied his sixth amendment right to counsel in violation of his rights under the United States Constitution. Trial in this matter is less than two months away. Central to the Government's case is critical video evidence that Mr. Funderburk must be able to review with his attorneys in advance of trial.

As a result of his relocation to FDC Philadelphia Mr. Funderburk is unable to adequately prepare for trial. His attorney's office is a four (4) hour drive to and from FDC

Philadelphia. Keeping Mr. Funderburk detained in Pennsylvania deprives him of his right to counsel and a fair trial in the above-captioned action.

**I. The Court Should Release Defendant on Home Detention Pending Trial.**

Releasing Mr. Funderburk to home detention would allow him access to his attorney so he can adequately prepare for trial. Defendant is not a violent person, and the Government makes no allegations that he is here. His criminal history includes exclusively non-violent drug offenses and absent is any violent crime or charges related to firearms. Here, Defendant is charged only with having possessed the firearm as a prohibited person, not having used it any time, nor having planned to use it for any non-legitimate purpose.

Defendant is a dedicated member of his family and his community. He has incredibly strong ties to each, as evidenced by his longstanding residence therein and letters from members thereof. In this Court, Defendant has previously fully complied with conditional release, and has done the same in Maryland state courts. He is a father of several children, and also cares for a young autistic child. Defendant completed his G.E.D. and has historically been self employed in real estate. He presents no risk of flight whatsoever.

**II. Alternatively, The Court Should Order Defendant Transferred to Pretrial Detention Facility in Baltimore.**

If the Court is not inclined to release Mr. Funderburk, he should be transferred to a pretrial facility in Baltimore. This would provide him reasonable access to his attorney and allow him to prepare for trial.

### **CONCLUSION**

Mr. Funderburk's present confinement in pretrial detention in an out-of-state facility violates his right to due process and a fair trial. Defendant vehemently denies the State's allegations, which do not include any violence whatsoever. He has every intention of appearing to defend himself and has incredibly strong ties to this area. For the above reasons, he respectfully requests this Court to release the Defendant, or in the alternative, Order him moved to a pretrial facility in Baltimore.

Respectfully submitted,



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Donald C. Wright (Bar Number 27355)  
Law Offices of Donald C. Wright, LLC  
611 Reisterstown Road  
Pikesville, Maryland 21208  
Tel.: 410-685-0202  
Email: dcw@dcwrightlaw.com

Attorneys for Defendant David Funderburk

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27th day of November, 2024, a copy of the foregoing *Motion* was delivered electronically via ECF to: Office of the United States Attorney.



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Donald C. Wright

### **POINTS AND AUTHORITIES**

18 U.S.C. § 3142  
U.S. Const. amend. VI